

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 903 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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JUNAGADH DISTRICT PANCHAYAT

Versus

MANHAR M GANDHI

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Appearance:

MR HS MUNSHAW for Petitioner

MR MD RANA for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/12/1999

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. The operative part of the impugned order reads as under:

Deft. is directed to comply with the order and direction given by Hon'ble Gujarat High Court in

second appeal no.45 and 46 of 1982 produced at ex.64 and make the proper calculation of the arrears of back wages as 75% as per the order of Hon'ble Gujarat High Court and pay the arrears within one month. In case, no fixation can be made by the deft. or fixation made by the deft. is not got approved by the local fund office within the said period, deft. is further directed to pay Rs.50,000/= by way of advance subject to adjustment and also directed to supply the complete and accurate service book to the plaintiff after making the necessary entries regarding reinstatement, periodical release of the increments, leave salary, L.T.C. and calculation of the leave admissible. In case of default, pltf. is entitled to recover the said arrears with running interest at the rate of 15% per annum. Necessary measures would be taken by the court accordingly.

#. The learned counsel for the petitioner admits that as directed by the court below, the petitioner has not undertaken the exercise of calculating the amount of arrears of backwages as 75% as per the order of this court. Second part of the order has been made and in fact operative only in case the first part is not complied with. The calculation of arrears of backwages which are payable to the respondent as per the decision of this court in the second appeal have been determined by the petitioner but that determination has not been accepted by the executing court and a fresh direction has to be given. This exercise has to be undertaken and if it is not undertaken, it is sole responsibility of the petitioner. So far as the grievance of the petitioner regarding direction of payment of interest at the rate of 15% p.a. on the arrears of salary / back wages etc. it is contended by learned counsel for the petitioner that interest has not been awarded by this court in the second appeal. However, that is not the matter which has to be decided at this stage. First the petitioner has to comply with the first part of the order of the executing court and submit its calculation. If the respondent is not satisfied with the calculation as made by petitioner, has all the right to make his objection against the same and then the executing court will decide what actual amount is payable to the respondent towards the back wages in compliance of the order of this court. The question of awarding of interest shall be decided afresh by the executing court. The direction of the executing court to pay Rs.50,000/= to the respondent is modified to the extent that this amount be deposited in the executing

court and the executing court is free to deposit this amount in the Fixed Deposit Receipt so that neither of the parties may suffer loss of interest thereon. The executing court has to pass order for disbursement of this amount at the time of passing final order in the execution application. Till that time, this amount shall remain in the F.D.R. This part of the order is not opposed by learned counsel for the respondent. The learned counsel for the petitioner prays for reasonable time for depositing Rs.50,000/= in the executing court. That prayer has also not been opposed. The petitioner shall deposit the amount of Rs.50,000/= in the executing court within a period of one month from the date of receipt of writ of this order or certified copy of this order, whichever is earlier. The first part of the impugned order has to be complied with and all necessary calculation of the amount has to be submitted to the executing court within a period of two months from the date of receipt of writ of this order or certified copy of the same, whichever is earlier. Subject to these observations, this civil revision application is disposed of accordingly with no order as to costs. Rule discharged.

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[sunil]